WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1983

ENROLLED

Com. Sub. for
HOUSE BILL No. 1875

(By Mr. ...)

Passed March 12, 1983
In Effect from Passage
ENROLLED
COMMITEE SUBSTITUTE
FOR
H. B. 1875
(By Mr. Givens)

[Passed March 12, 1983; in effect from passage.]

AN ACT to amend and reenact sections four-b and four-c, article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend said article by adding thereto eighteen new sections, designated sections twenty-six through forty-three, all relating to the creation of and deposit into a medical center revenue fund of certain fees, charges and rentals collected at the West Virginia University medical center; authorizing leasing activities for public educational and patient services purposes; authorizing issuance of revenue bonds and notes by the West Virginia board of regents to finance the cost of acquiring, constructing, reconstructing, remodeling, repairing, improving, extending, equipping and furnishing the buildings and other physical facilities of the West Virginia University medical center, with the proceeds of any bond or note issuance to be expendable after appropriation by the Legislature; authorizing payment of principal of and premium, if any, and interest on said revenue bonds and notes from all or any portion of the moneys from time to time on deposit in said medical center revenue fund and of any other gross revenues, excluding tuition fees, derived from said medical center; authorizing acceptance of federal and pri-
vate assistance; specifying that bonds and notes issued are not a
debt of nor pledge of faith and credit of the state, any county,
municipality or political subdivision; providing for bonds and
notes, after issuance, to be negotiable instruments and to be
exempt from taxation by the state, any county, municipality,
political subdivision or agency thereof, with exception; providing
for severability and interpretation of sections of the act; and ef-
fective date.

Be it enacted by the Legislature of West Virginia:

That sections four-b and four-c, article eleven, chapter eigh-
teen of the code of West Virginia, one thousand nine hundred
thirty-one, as amended, be amended and reenacted; and that said
article be further amended by adding thereto eighteen new sections,
designated sections twenty-six through forty-three, inclusive, all to
read as follows:

ARTICLE 11. WEST VIRGINIA UNIVERSITY.

§18-11-4b. Authority to fix and collect fees and charges at medical
center; disposition thereof.

The West Virginia board of regents shall have authority to
collect from patients at the West Virginia University medical
center such hospital, clinic, laboratory and other fees and
charges as may be fixed by the board of regents from time to
time. All such fees and charges collected at the medical center
exclusive of physician and dentist fees shall be paid into a
medical center revenue fund, which is hereby created in the
state treasury, and shall be used solely for the construction,
maintenance and operation of the medical center, including
the payment of the principal of and premium, if any, and
interest on revenue bonds and notes issued by the board of
regents for the purpose of financing the cost of acquiring, con-
structing, reconstructing, remodeling, repairing, improving, ex-
tending, equipping or furnishing the buildings and other phy-
si cal facilities of said medical center.

§18-11-4c. Authority to lease portions of medical center to operate
supply rooms at medical center; fixing, collection
and disposition of charges.

The West Virginia board of regents shall have authority to
lease, as lessor, to any person for purposes directly associated
with public educational or patient services, any portion of the
West Virginia University medical center and to operate at the
medical center supply rooms for the sale or rental of equip-
ment to patients, students, faculty and university departments
and for the furnishing to patients, students, faculty and uni-
versity departments, medical, dental and pharmaceutical sup-
plies and laundry and other services. The board of regents
shall have authority to fix the terms of any such lease or rental
agreements and the prices and charges to be collected for such
lease of any such portion of the medical center or the sale,
rental or furnishing of any such equipment, supplies and ser-
vices. All moneys collected under the authority of this section
shall be paid into the medical center revenue fund heretofore
created in the state treasury under the provisions of section
four-b of this article and shall be used solely for the construc-
tion, maintenance and operation of the medical center, includ-
ing the payment of the principal of and premium, if any, and
interest on revenue bonds and notes issued by the board of
regents for the purpose of financing the cost of acquiring, con-
structing, reconstructing, remodeling, repairing, improving,
extending, equipping or furnishing the buildings and other phy-
sical facilities of said medical center.

§18-11-26. Definition of board; cost of acquiring, constructing, re-
constructing, remodeling, repairing, improving, ex-
tending, equipping or furnishing the West Virginia
University medical center to be financed by revenue
bonds or notes.

(1) Notwithstanding the provisions of section one, article
one of this chapter, the word "board," when used in sections
twenty-six through forty-two, inclusive, of this article, means
the West Virginia board of regents.

(2) For the purpose of financing the cost of acquiring, con-
structing, reconstructing, remodeling, repairing, improving, ex-
tending, equipping or furnishing the buildings or other physical
facilities of the West Virginia University medical center, the
board periodically may issue negotiable bonds or notes of the
state in a principal amount which, in the opinion of the board,
shall be necessary to finance said costs, and the proceeds of
the issuance of any such bonds or notes shall be expendable
after appropriation thereof by the Legislature. Such cost shall
include, but not be limited to, the following: The cost of such
acquisition, construction, reconstruction, remodeling, repair,
improvement, extension, equipment or furnishing; studies and
surveys; plans, specifications, architectural and engineering
services; legal, organization, marketing or other special ser-
vice; interest and carrying charges prior to, during and for
six months after completion of such acquisition, construction,
reconstruction, remodeling, repair, improvement, extension,
equipment or furnishing; the costs of issuing the bonds or
notes; and a reasonable reserve for payment of the principal
of and interest on the bonds or notes.

(3) The board periodically may issue renewal notes of
the state, may issue revenue bonds of the state to pay notes
and, if it considers refunding expedient, may refund or re-
fund in advance bonds issued by the board by the issuance of
new bonds of the state, pursuant to the requirements of sec-
tion thirty-two of this article.

(4) Except as may otherwise be expressly provided by the
board, every issue of bonds or notes by it shall be special
obligations of the state, payable solely from the revenues or
other moneys pledged therefor.

(5) The bonds and the notes shall be authorized by resolu-
tion of the board, shall bear such date and shall mature at such
time or times, in the case of any such note or any renewals
thereof not exceeding five years from the date of issue of such
original note, and in the case of any such bond not exceeding
forty years from the date of issue, as such resolution may pro-
vide. The bonds and notes shall bear interest at such rate or
rates, be in such denominations, be in such form either coupon
or registered, carry such registration privileges, be payable in
such medium of payment and at such place and be subject to
such terms of redemption as the board may authorize. The
bonds and notes may be sold by the board in the manner and
at or not less than the price the board determines. The bonds
and notes shall be executed by the governor and the president
of the board, both of whom may use facsimile signatures. The
great seal of the state or a facsimile thereof shall be affixed
thereto or printed thereon and attested, manually or by fac-
simile signature, by the secretary of state, and any coupons at-
tached thereto shall bear the manual or facsimile signature of
the president of the board. In case any officer whose signature,
or a facsimile of whose signature, appears on any bonds, notes
or coupons ceases to be such officer before delivery of such
bonds or notes, such signature or facsimile is nevertheless
sufficient for all purposes the same as if he had remained in
office until such delivery; and, in case the seal of the state
has been changed after a facsimile has been imprinted on
such bonds or notes, such facsimile seal will continue to be
sufficient for all purposes.

(6) A resolution authorizing bonds or notes or an issue of
bonds or notes under sections twenty-six through forty-two,
inclusive, of this article, may contain provisions, which shall
be a part of the contract with the holders of the bonds or
notes, as to any or all of the following:

(a) Pledging and creating a lien on all or any portion of
the moneys from time to time on deposit in the medical center
revenue fund, heretofore created by section four-b of this
article, to secure the payment of the bonds or notes or of any
issue of bonds or notes, subject to those agreements with
bondholders or noteholders which then exist;

(b) Pledging and creating a lien on any loan, grant or con-
tribution to be received from the federal, state or local govern-
ment or other source;

(c) The use and disposition of the moneys on deposit in
the medical center revenue fund and any other gross revenues
derived from the medical center;

(d) The setting aside of reserves or sinking funds and the
regulation and disposition thereof;

(e) Limitations on the purpose to which the proceeds of
sale of bonds or notes may be applied and pledging the pro-
ceeds to secure the payment of the bonds or notes or of any
issue of the bonds or notes;
(f) Limitations on the issuance of additional bonds or notes and the terms upon which additional bonds or notes may be issued and secured;

(g) The procedure by which the terms of a contract with the bondholders or noteholders may be amended or abrogated, the amount of bonds or notes the holders of which must consent thereto and the manner in which the consent may be given; and

(h) Vesting in a trustee or trustees the property, rights, powers, remedies and duties which the board considers necessary or convenient.

(7) Prior to the preparation of definitive bonds or notes, the board may under like restrictions issue temporary bonds or notes, with or without coupons, exchangeable for definitive bonds or notes, as the case may be, upon the issuance of the latter.

§18-11-27. Trustee for bondholders or noteholders; contents of trust agreement.

In the discretion of the board, any bonds, refunding bonds or notes issued by the board may be secured by a trust agreement between the board and a corporate trustee, which trustee may be any trust company or banking institution having the powers of a trust company within or without the state. Any such trust agreement may contain provisions as set forth in section twenty-six of this article with respect to the resolution. All expenses incurred in carrying out such agreement may be treated as a part of the cost of acquiring, constructing, reconstructing, remodeling, repairing, improving, extending, equipping or furnishing the buildings or other physical facilities of the West Virginia University medical center affected by the agreement.

§18-11-28. Operation and control of fiscal affairs of West Virginia University medical center.

The board shall properly maintain, repair, operate, manage and control the fiscal affairs of the West Virginia University medical center, fix the rates of rents, fees or charges and establish rules and regulations for the use and operation of the
medical center, as provided by sections four-b through four-
d, inclusive, of this article, and as otherwise required by this
code or determined necessary by the board, and may make and
enter into all contracts or agreements necessary and incidental
to the performance of its duties and the execution of its pow-
ers under sections twenty-six through forty-two, inclusive, of
this article.

§18-11-29. Payment of principal of and premium, if any, and inter-
est on bonds and notes from medical center revenue
fund and other gross revenues derived from West
Virginia University medical center; gross revenues
not to include tuition fees.

Whenever bonds or notes are issued for acquiring, construct-
ing, reconstructing, remodeling, repairing, improving, extend-
ing, equipping or furnishing the buildings or other physical
facilities of the West Virginia University medical center, the
board may pledge to the payment of the principal of and
premium, if any, and interest on said bonds or notes all or any
portion of the moneys from time to time on deposit in the
medical center revenue fund heretofore created by section
four-b of this article or of any other gross revenues derived
from the medical center. For the purposes of sections twenty-
six through forty-two, inclusive, of this article, gross revenues
shall not include tuition fees collected at the West Virginia
University medical center and disposed of pursuant to section
four-d of this article.

§18-11-30. Enforcement of payment and validity of bonds and
notes.

(1) The provisions of sections twenty-six through forty-
two, inclusive, of this article and any resolution or trust agree-
ment shall continue in effect until the principal of and interest
on the bonds or notes of the state issued by the board have
been fully paid, and the duties of the board under said sections
and any resolution or trust agreement shall be enforceable by
any bondholder or noteholder by mandamus or other appro-
priate action in any court of competent jurisdiction.

(2) The resolution authorizing the bonds or notes shall pro-
vide that such bonds or notes shall contain a recital that they
are issued pursuant to sections twenty-six through forty-two, inclusive, of this article, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

§18-11-31. Pledges, time, liens, recordation.

Any pledge made by the board shall be valid and binding from the time the pledge is made. The moneys so pledged and thereafter paid into the medical center revenue fund or otherwise received by the board shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the board, irrespective of whether such parties have notice thereof.

§18-11-32. Refunding bonds.

Any bonds issued under the provisions of sections twenty-six through forty-two, inclusive, of this article and at any time outstanding may at any time and from time to time be refunded by the board by the issuance of refunding bonds of the state in such amount as it may deem necessary to refund the principal of the bonds so to be refunded, together with any unpaid interest thereon; to provide additional funds for the purposes authorized by said sections; and to pay any premiums and commissions necessary to be paid in connection therewith. Any such refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof for the redemption of the bonds to be refunded thereby, or by exchange of the refunding bonds for the bonds to be refunded thereby: Provided, That the holders of any bonds to be refunded shall not be compelled without their consent to surrender their bonds for payment or exchange prior to the date on which they are payable or, if they are called for redemption, prior to the date on which they are by their terms subject to redemption. Any refunding bonds issued under the authority of this section shall be payable from the revenues out of which the bonds to be refunded thereby were payable, from other moneys or from the principal of and interest on or other investment yield from invest-
ments or proceeds of bonds or other applicable funds and moneys, including investments of proceeds of any refunding bonds, and shall be subject to the provisions contained in and shall be secured in accordance with sections twenty-six through forty-two, inclusive, of this article.

§18-11-33. Purchase and cancellation of bonds or notes.

The board, subject to such agreements with bondholders or noteholders as may then exist, shall have the power, out of any funds available therefor, to purchase bonds, including refunding bonds, or notes of the state issued by the board. If the bonds or notes are then redeemable, the price of such purchase shall not exceed the redemption price then applicable plus accrued interest to the next interest payment date thereon. If the bonds or notes are not then redeemable, the price of such purchase shall not exceed the redemption price applicable on the first date after such purchase upon which the bonds or notes become subject to redemption plus accrued interest to such date. Upon such purchase, such bonds or notes shall be cancelled.

§18-11-34. Federal and private assistance.

The board is authorized and empowered to accept loans or grants or temporary advances for the purpose of paying part or all of the cost of acquiring, constructing, reconstructing, remodeling, repairing, improving, extending, equipping or furnishing the buildings or other physical facilities of the West Virginia University medical center and the other purposes herein authorized from the United States of America or such federal or public agency or department of the United States or any private agency, corporation or individual, which temporary advances may be repaid out of the proceeds of the bonds authorized to be issued under the provisions of sections twenty-six through forty-two, inclusive, of this article, and to enter into the necessary contracts and agreements to carry out the purposes hereof with the United States of America or such federal or public agency or department of the United States or with any private agency, corporation or individual.
§18-11-35. Vested rights; impairment.

The state pledges and agrees with the holders of any bonds or notes issued under sections twenty-six through forty-two, inclusive, of this article that the state will not limit or alter the rights vested in the board to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies of the holders, until the bonds or notes, together with the interest thereon, and all costs and expenses in connection with an action or proceeding by or on behalf of such holders, are fully met and discharged. The board is authorized to include this pledge and agreement of the state in any agreement with the holders of such bonds or notes.

§18-11-36. Bonds and notes not debt of state, county, municipality or any political subdivision; expenses incurred pursuant to article.

Bonds, refunding bonds and notes issued under the authority of sections twenty-six through forty-two, inclusive, of this article and any coupons in connection therewith shall not constitute a debt or a pledge of the faith and credit or taxing power of this state or of any county, municipality or any other political subdivision of the state, and the holders and owners thereof shall have no right to have taxes levied by the Legislature or the taxing authority of any county, municipality or any other political subdivision of this state for the payment of the principal thereof or interest thereon, but such bonds and notes shall be payable solely from the revenues and funds pledged for their payment as authorized by said sections, unless the notes are issued in anticipation of the issuance of bonds or the bonds are refunded by refunding bonds issued under the authority of said sections, which bonds or refunding bonds shall be payable solely from revenues and funds pledged for their payment as authorized by said sections. All such bonds and notes shall contain on the face thereof a statement to the effect that the bonds or notes, as to both principal and interest, are not debts of the state or any county, municipality or political subdivision thereof, but are payable solely from revenues and funds pledged for their payment.

All expenses incurred in carrying out the provisions of sec-
§18-11-37. Negotiability of bonds and notes.

Whether or not the bonds or notes are of such form or character as to be negotiable instruments under the uniform commercial code, the bonds or notes authorized to be issued by sections twenty-six through forty-two, inclusive, of this article are negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds or notes for registration.


The provisions of sections nine and ten, article six, chapter twelve of this code to the contrary notwithstanding, the bonds and notes of the state issued by the board are securities in which all public officers and bodies of this state, including the West Virginia state board of investments, all municipalities and other political subdivisions of this state, all insurance companies and associations and other persons carrying on an insurance business (including domestic for life and domestic not for life insurance companies), all banks, trust companies, societies for savings, building and loan associations, savings and loan associations, deposit guarantee associations and investment companies, all administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever who are authorized to invest in bonds or other obligations of the state may properly and legally invest funds, including capital, in their control or belonging to them.


The exercise of the powers granted to the board by sections twenty-six through forty-two, inclusive, of this article will be in all respects for the benefit of the students and teachers of and patients at the West Virginia University medical center and the other people of the state, for the improvement of their
health, safety, convenience and welfare, and is a public purpose. As the operation and maintenance of the West Virginia University medical center constitutes the performance of essential governmental functions, the board shall not be required to pay any taxes or assessments upon any property acquired or used by the board or upon the income therefrom.

All bonds and notes of the state issued by the board, and all interest and income thereon, shall be exempt from all taxation by this state and any county, municipality, political subdivision or agency thereof, except inheritance taxes.

§18-11-40. Sections and provisions severable.

Sections twenty-six through forty-two, inclusive, of this article, and the provisions and parts of said sections, are severable, and it is the intention to confer the whole or any part of the powers provided for in said sections, and if any of said sections or the provisions or parts of any of said sections, or the application thereof to any person or circumstance, are for any reason held unconstitutional or invalid, it is the intention that the remaining sections and provisions or parts thereof shall remain in full force and effect.

§18-11-41. Sections regarded as supplementary.

Sections twenty-six through forty-two, inclusive, of this article shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplementary and additional to powers conferred by other laws.

§18-11-42. Liberal construction.

Sections twenty-six through forty-two, inclusive, of this article, being necessary for the health, safety, convenience and welfare of the students and teachers of and the patients at the West Virginia University medical center and the other people of this state, shall be liberally construed to effectuate the purposes thereof.

§18-11-43. Effective date.

The provisions of sections four-b, four-c and sections
twenty-six through forty-three of this article shall take effect as of the date of passage.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within __________________ this the ___________ day of ______________________, 1983.

Governor